THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE D.APPA RAO.

WRIT APPEAL No.130 of 2006.

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JUDGMENT: (Per Hon'ble Mr Justice B.Prakash Rao)

Heard Mrs.Urmila, the learned counsel appearing for the appellants and Mr.S.Sudeep Reddy, the learned counsel appearing on behalf of the respondents.

The appellants are the respondents against whom the writ petition was filed by the respondent No.1 herein seeking Mandamus to declare the proceedings dated 26-8-1994 as illegal, where under the claim of the respondent No.1 seeking appointment to any suitable post in lieu of acquisition of land for construction of Vijayawada Thermal Power Station was rejected.

The facts, which are necessary for disposal of this appeal are that R-1's land was acquired in 1978 and he was dispossessed from the lands and thereafter, he made a letter to the concerned seeking for appointment. At the relevant point of time, he was studying B.A., and he was entitled to the post of Record Assistant. However, under the impugned order dated 26-8-1994, the claim of the respondent-No.1 was rejected on the ground that he does not satisfy the prescribed age limit. In the writ petition challenging the said proceedings, after contest, the learned single Judge held that the reasons given by the appellants herein to reject the petitioner's request is solely unsustainable and accordingly set aside the same and therefore, directed the respondents to pass appropriate orders, taking into consideration the age of the petitioner as on the date of his original application, and consider the case of the petitioner for appointment to the post of L.D.C/Record Assistant or in any other suitable post,

which he is eligible, taking into account his age at the time of submission of his initial application and his education qualifications and pass appropriate orders.

Though the learned Standing Counsel appearing on behalf of the appellants strenuously contended that having regard to the age on the date of application and also the factum of educational qualifications the first respondent is not eligible for appointment of any suitable post and therefore, he is not entitled to the relief sought for.

Having considered the submissions made and on perusal of record, it is seen that there is no dispute of fact that the lands of the respondent No.1 was acquired and he made application in the year 1978 and at that point of time he did not complete graduation and he was studying B.A. Thereafter, he acquired the said qualification. Hence, it can safely be said that he may not be eligible for appointment to the post of L.D.C. Further, he was fully qualified to the post of Record Assistant for which the minimum qualification required is only 10th Class. In the circumstances, the objection raised on behalf of the appellants that subsequent qualification of graduation would not entitle him to question any appointment to the post of L.D.C has some force. Further, as on the date, he is age barred. We are not prepared to accept the stand taken on behalf of the appellants herein. Admittedly, the application filed by the respondent No.1 has not been aptly taken into consideration and no appointment has been given. The respondent No.1 could have been straight away appointed to the post of Record Assistant by taking into consideration the age and also the fact that he already passed 10th class, though he did not complete the graduation at that point of time. However, it is open to the appellant to contest that as on this day the respondent No.1 was age barred.

In the circumstances, we do not find any merits in the above appeal and appeal is accordingly dismissed directing the appellants to consider the respondent No.1's case for appointment to the post of Record Assistant and pass appropriate orders within a period of one

month from today.

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B.PRAKSH RAO, J

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D. APPA RAO, J

Dated 9th March, 2006.

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